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Attorneys for Heber Avenue Partners, LLC

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:
EASY STREET HOLDING, LLC, et al.,
Debtors.

Tax ID Numbers:

35-2183713 (Easy Street Holding, LLC)
20-4502979 (Easy Street Partners, LLC)
84-1685764 (Easy Street Mezzanine, LLC)

Case No. 09-29905
(Jointly Administered with Cases 09-29907
and 09-29908)

Chapter 11

Honorable R. Kimball Mosier

**NOTICE OF STIPULATION AND WITHDRAWAL OF HEBER AVENUE PARTNERS,
LLC'S OBJECTION TO CLAIM NO. 23 OF PHILO SMITH, JR. PURSUANT TO
SECTION 502(B) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 3001,
3003 AND 3007**

Heber Avenue Partners, LLC ("Heber"), the reorganized debtor pursuant to the confirmed Amended Plan of Reorganization of Easy Street Partners, LLC and WestLB, AG

dated June 16, 2010 [Docket No. 566] (the “Confirmed Plan”),¹ by and through its undersigned counsel, hereby gives notice of the Stipulation Fixing Claim of Philo Smith, Jr. Against Easy Street Partners, LLC (the “Stipulation”), a copy of which is attached as Exhibit A hereto and incorporated herein by reference, and the consequent withdrawal of Heber’s Objection to Claim No. 23 of Philo Smith, Jr. Pursuant to Section 502(b) of the Bankruptcy Code and Bankruptcy Rules 3001, 3003 and 3007 [Docket No. 714] (the “Objection”).

On November 24, 2010, Heber filed its Objection to the filed claim of Philo Smith, Jr. (“Smith”) in the total amount of \$237,000 (the ”Smith Claim”) which, based upon documentation subsequently provided by Smith, consists of claims for: (i) reimbursement of \$12,000 paid to Axis Consulting Services, LLC; (ii) reimbursement of \$25,000 paid to Durham Jones & Pinegar; and (iii) reimbursement of \$200,000 paid to Crowell & Moring, LLP which amounts were paid out of the Diane Jordan-Smith Trust (the “Trust”). Heber’s Objection sought to disallow the Smith Claim in its entirety.

Pursuant to the Stipulation, Heber and Smith agreed that in full and complete satisfaction of the Smith Claim and any claim that could have been asserted against Easy Street Partners, LLC’s (“Partners”) estate by the Trust, Heber would pay \$112,500.00 to the Trust within five (5) business days after full execution of the Stipulation.

In accordance with the Confirmed Plan, Heber “may settle, compromise or otherwise resolve any Disputed Claim without further order of the Bankruptcy Court.” Confirmed Plan, § 6.2. Accordingly, having reached a settlement in this matter, Heber hereby withdraws its

¹ The Court entered its Order Confirming Amended Plan of Reorganization of Easy Street Partners, LLC and WestLB, AG Dated June 16, 2010 on July 2, 2010 [Docket No. 600].

Objection, and no further order of the Court is necessary to effectuate the settlement of this matter.

DATED this 7th day of January, 2011.

DORSEY & WHITNEY LLP

/s/ Benjamin J. Kotter _____

Annette W. Jarvis
Peggy Hunt
Benjamin J. Kotter

and

Richard W. Havel
SIDLEY AUSTIN LLP

Attorneys for Heber Avenue Partners, LLC

Exhibit A

**STIPULATION FIXING CLAIM OF PHILO SMITH, JR. AGAINST
EASY STREET PARTNERS, LLC**

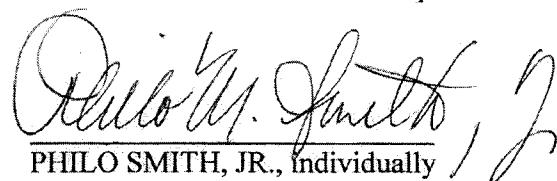
Heber Avenue Partners, LLC ("Heber"), the Reorganized Debtor pursuant to the Amended Joint Plan of Easy Street Partners, LLC ("Partners") and WestLB, AG Dated June 16, 2010 (the "Plan"), The Diane Jordan-Smith Trust (the "Trust"), and Philo Smith, Jr. ("Smith" and, together with Heber and the Trust, the "Parties") hereby state as follows:

- A. Partners commenced this case under Chapter 11 of the United States Bankruptcy Code by filing a voluntary petition on September 14, 2009.
- B. Partners did not list Smith in its schedules of assets and liabilities as a creditor. On January 5, 2010, Smith filed proof of claim number 23 against Partners in the amount of \$237,000 (the "Smith Claim").
- C. Based on documentation subsequently provided by Smith, the Smith Claim consisted of (i) reimbursement of \$12,000 paid to Axis Consulting Services, LLC; (ii) reimbursement of \$25,000 paid to Durham Jones & Pinegar; and (iii) reimbursement of \$200,000 paid to Crowell & Moring, which amounts were paid out of the Trust.
- D. Partners contends that it is not liable for the \$237,000 and has filed an objection to the Smith Claim, in which it seeks to disallow the Smith Claim in its entirety.
- E. In light of the foregoing, the substantive objections Heber has raised to allowance of the Smith Claim, and the expense of prosecuting and defending any such an objection, the Parties have determined to enter into a consensual resolution of the Smith Claim against Partners' bankruptcy estate.

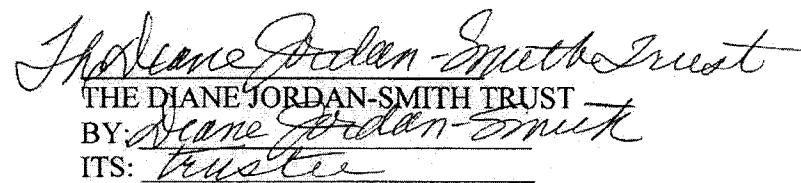
WHEREFORE, the Parties stipulate and agree as follows:

- 1. In full and complete satisfaction of the Smith Claim and any claim that could have been asserted against Partners' bankruptcy estate by the Trust, Heber shall pay to the Trust within five (5) business days after full execution of this Settlement Agreement, one hundred twelve thousand five hundred dollars (\$112,500) in immediately available funds.**

DATED this 2nd day of December, 2010



Philo M. Smith, Jr.
PHILO SMITH, JR., Individually



Diane Jordan-Smith
THE DIANE JORDAN-SMITH TRUST
BY: Diane Jordan-Smith
ITS: Trustee

DATED this 14 day of December, 2010

HEBER AVENUE PARTNERS LLC,
a Delaware limited liability company

By: WestLB AG, a German banking corporation,
acting through its Cayman Islands branch, its Member

By:


Name: David Pascual
Title: Director

By:


Name: Martin Marty
Title: Associate Director